

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND SIX

PRESENT

**THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO**

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WRIT PETITION No.12535 OF 2006

Between:

S.Sithamma, w/o. Late S.Chinnaiah.

..... PETITIONER

AND

The Superintendent of Police,
Chittoor, Chittoor District,
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.12535 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner who is aged about 48 years filed the present writ petition with a prayer as follows:

“... Hon’ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Habeas Corpus to direct the respondents to produce the son of the petitioner by name S.Kishore S/o Late S.Chinnaiah, aged about 25 years, R/o Peddakammapalli Village, K.V.Palli Mandal, Chittoor District before this Hon’ble Court after declaring his detention by the respondents is illegal, and pass ...”

Apparently an innocent affidavit filed in support of the present writ petition contains the allegations that on 19.06.2006 in the early hours, the petitioner’s son along with his friends while coming on motor cycle from Tirupati to the village of the petitioner were apprehended by the police constables of the 3rd respondent Police Station without giving any reason and taken them away and kept them in the lockup. The petitioner further alleged that her son and some unnamed friends of the petitioner’s son were kept in illegal custody of the 3rd respondent and were being harassed on ‘some pretext or the other’. Complaining that the said illegal detention violates the

fundamental right of the petitioner's son, the present writ petition is filed on 21.06.2006.

The learned Advocate General took notice on 22.06.2006 and filed counter-affidavit. In the counter-affidavit it is stated at para 3 that on 21.06.2006 a complaint was received by the respondent police, which was registered in Crime No.61 of 2006 under Section 307 r/w 34 IPC against the petitioner's son and five others. The substance of the complaint in the above crime is that on 19.06.2006 the son of the petitioner and others attacked one Gali Sudhakar Naidu with an intention to kill him. Further, in the counter-affidavit it is stated that during the course of investigation in the above-mentioned crime, on 22.06.2006 the alleged detenu and five others were arrested at about 4.00 p.m. near Dinnemeedapalli Bus Stop. It is further stated that one 7.65 mm Pistol (made in China) along with loaded magazine with six bullets and certain other material were seized from the alleged detenu and others. The alleged detenu and others were produced before the Judicial Magistrate of First Class, Madanapalle on 23.06.2006 and they were remanded to judicial custody and now lodged in Sub-Jail, Pileru. The alleged detenu herein is the Accused No.1 in the above-mentioned crime.

In view of the fact that the alleged detenu is remanded to judicial custody, we do not see any reason to proceed further in the writ petition.

We must also place on record that the petitioner has not come to this Court with clean hands. She suppressed the truth. The fact that the crime was registered against the alleged detenu is not brought to the notice of this Court in the affidavit filed in support of the writ petition. We have no reason to believe that the petitioner is ignorant of the said fact or that she did not know the relevance of the said fact. From a reading of the affidavit, it is revealed that the petitioner, is claiming to have knowledge of the fact as to constables of which Police

Station took the alleged detenu. The petitioner's statement in the affidavit that she went to the Police Station on 20th June, 2006 to enquire regarding the detention of her son, clearly, in our view, establishes that she had knowledge of the crime registered against her son.

In the circumstances, we are of the opinion that the present writ petition is only a preemptive measure to put pressure on the police not to investigate the crime registered against the alleged detenu, and therefore, we are of the view that the writ petition is a sheer abuse of the process of this Court, and therefore, direct the petitioner to pay costs of Rs.5,000/- (Rupees five thousand only) to the A.P. State Legal Services Authority, City Civil Courts Compound, Hyderabad, within a period of one week from today. The Registry is directed to communicate the copy of this order to the Secretary, A.P. State Legal Services Authority, City Civil Courts Compound, Hyderabad, for recovery of the above-mentioned amount.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

29TH JUNE, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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WRIT PETITION No.12535 OF 2006
(Per Sri Justice J.Chelameswar)

29TH JUNE, 2006